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REMARKSSummary of Claim Amendments

Claims 36 and 37 are cancelled. Thus, Claims 29-35 and 38-58 remain as the pending claims in this application.

Summary of the Office Action

The Office Action dated June 25, 2007, included the following rejections and objections:

1. Claims 36 and 37 were rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Office believes the phrase "as measured by the test herein defined" renders the claims indefinite.
2. Claims 29-58 were provisionally rejected on the grounds of nonstatutory obviousness-type double patenting over claims 22-46 of co-pending Application No. 11/516,967.
3. Claims 29-53 and 56-58 were rejected under U.S.C. 103(a) as being unpatentable over US Patent 5,968,631 to KERR in view of US Patent 6,896,964 to KVESIC.
4. Claims 54 and 55 were rejected under U.S.C. 103(a) as being unpatentable over US Patent 5,968,631 to KERR in view of US Patent 6,896,964 to KVESIC, and in further view of PCT Application Publication No. WO96/038298 to BURKE.

In response to these rejections, objections, and comments, and in view of the above Amendments, Applicants provide the following Remarks.

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Discussion of the Rejections

1. Claims 36-37 were rejected under 35 U.S.C. 112, second paragraph. Claims 36-37 have been cancelled, thereby rendering this rejection moot.
2. Claims 29-58 were provisionally rejected on the grounds of nonstatutory obviousness-type double patenting over claims 22-46 of co-pending Application No. 11/516,967. Applicants may be willing to submit a terminal disclaimer, once all other issues of patentability have been resolved.
3. Claims 29-53 and 56-58 stand rejected as being unpatentable over US Patent 5,968,631 to KERR in view of US Patent 6,896,964 to KVESIC. The Office Action states that KERR teaches the invention, with the exception of the presence of voids in the elastomer backing. The Office Action also states that KVESIC teaches rubber mats made of ground rubber and binder having a plurality of voids, the size of which depends on factors including the size and shape of the treated rubber particles. The Office Action states that it would have been obvious to one of ordinary skill in the art to substitute the rubber material of KVESIC comprising voids for the continuous material of the elastomer backing of KERR, since KVESIC teaches the presence and size of the voids are within the level of ordinary skill in the art. Applicants respectfully traverse this conclusion.

As best understood, KVESIC teaches recycled rubber products made from ground rubber particles and polyurethane resin binders. The particles and binders are mixed together (Col. 5, lines 1-35) and then cured into the final product (Col. 6, lines 33-67). Conversely, the vulcanized thermoplastic elastomer of KERR is continuously extruded—in the form of a molten mixture of

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a continuous matrix of thermoplastic material with rubber particles throughout—onto a primary fabric having an adhesive layer. This thermoplastic elastomer mixture is extruded at a temperature of at least about 450°F (Col 4, lines 23-26).

MPEP 2143.02 states: "The prior art can be modified or combined to reject claims as *prima facie* obvious as long as there is a reasonable expectation of success." *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986)

Applicants respectfully submit that no such reasonable expectation exists in the combination of KERR with KVESIC, which would lead to the substitution of KERR's continuous elastomer backing for KVESIC's void-containing (i.e., discontinuous) backing made from granulated rubber and a binder resin. One skilled in the art seeking to make a mat with a void-containing crumb-rubber backing would use much different processes, parameters, and materials in a mixing-and-curing system, as taught by KVESIC, as compared to the high-temperature extrusion processes, parameters, and materials, taught by KERR. Moreover, materials such as the curable polyurethane taught by KVESIC are not capable of being extruded in the process described in KERR, regardless of the size of the crumb or the amount of binder.

Thus, because there is no reasonable expectation of success in modifying the combination of references, Applicants respectfully submit that no *prima facie* case of obviousness exists. Accordingly, Applicants request the withdrawal of such rejection.

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4. Claims 54-55 were rejected as being unpatentable over US Patent 5,968,631 to KERR in view of US Patent 6,896,964 to KVESIC, and in further view of PCT Application Publication No. WO96/038298 to BURKE.

As best understood, BURKE teaches the application of edging strips to a floor mat having a rubber backing. The rubber backing is in the form of a continuous sheet. BURKE fails to teach the use of a crumb, or discontinuous, backing layer. There is no reasonable expectation of success in combining BURKE's edging strips, which are made of carboxylated rubber, with the teachings of KERR and KVESIC.

Applicants respectfully submit that the addition of BURKE does not cure the deficiencies of KERR and KVESIC.

For this reason, Applicants submit that no *prima facie* case of obviousness exists. Accordingly, Applicants respectfully request the withdrawal of such rejection.

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CONCLUSION

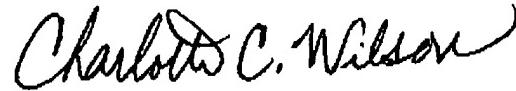
Applicants believe that the arguments and claims provided herein are those associated with the present application. No substantive changes to the arguments have been made, the only changes being to correct the claim numbers to correspond the claims in the present application.

It is believed that this response is being timely submitted and that no fees are owed with this response. However, should that belief prove incorrect, Applicants hereby authorize the withdrawal of the necessary fee amounts, including fees for extensions of time, from Deposit Account No. 04-0500.

Respectfully submitted,

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